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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 DAVE THOMAS, as Guardian ad Litem
12 on behalf of JONATHAN THOMAS,
13 Plaintiff,
14 v.
15 COUNTY OF SAN DIEGO, et al.,
16 Defendants.

Case No.: 3:15-cv-02232-L-AGS

**ORDER DENYING DEFENDANT
JORGE NARANJO'S MOTION [Doc.
46] TO DISMISS**

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18 Pending before the Court is Defendant Jorge Naranjo's ("Naranjo") motion to
19 dismiss the First Amended Complaint as to him. Pursuant to Civil Local Rule 7.1(d)(1),
20 the Court decides the matter on the papers submitted and without oral argument. For the
21 foregoing reasons, the Court **DENIES** Naranjo's motion to dismiss.

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1 **I. BACKGROUND**

2 This litigation arises from a young man named Jonathan Thomas (“Thomas”)
3 attempting suicide by jumping off an upper tier of an inmate housing unit. Thomas has
4 suffered from a variety of mental disorders throughout his life. He has been diagnosed
5 with epilepsy, mania, depression, and schizophrenia. Because of his disorders, Thomas
6 has experienced hallucinations and delusions daily and has attempted suicide on multiple
7 occasions. Such troubles led Thomas’ father Dave to conclude that Thomas required the
8 constant observation of mental health professionals. Dave therefore checked Thomas
9 into a home that provided twenty-four-hour monitoring and therapy.

10 A few months after admission, Thomas attempted to set a small couch on fire
11 inside of the psychiatric home. He was subsequently arrested for arson of an inhabited
12 structure and sent to detention to await sentencing. While in detention, Thomas
13 attempted suicide twice by jumping off the second tier of his housing unit. Shortly after
14 the second suicide attempt, Thomas pled guilty to arson of an inhabited structure and
15 received a sentence of three years. Two years into his sentence, Thomas was transferred
16 to Atascadero State Hospital (“ASH”), because the authorities found that he represented a
17 substantial danger of physical harm to himself and others. Thomas’ commitment to this
18 mental institution has been involuntarily extended for a period of one year on three
19 occasions.

20 In October of 2014, Thomas was transferred to San Diego Central Jail (the “Jail”)
21 to await a routine court hearing before the San Diego Superior Court. In connection with
22 this transfer, the Jail received notification of Thomas’ previous suicide attempts. The Jail
23 also received discharge papers from ASH that noted his medical conditions, stated he had
24 attempted suicide twice by jumping off upper housing tiers and ordered that Thomas
25 receive “intensive psychiatric care” and “close psychiatric supervision.” Under these
26 circumstances, Jail policy required Thomas be placed on “Suicide Precautions” and
27 housed in a lower bunk on a lower tier and placed under heightened observation.
28 However, the Jail staff decided to house Thomas on an upper tier of a housing area

1 comparable in supervision levels to conditions in general population. Thomas again
2 jumped from the upper tier, sustaining substantial injuries.

3 Defendant Naranjo was involved in the decision to house Thomas on an upper tier
4 under normal supervision levels. Specifically, Naranjo was a psychiatrist at the Jail. He
5 received and reviewed the above mentioned documentation of Thomas' medical disorders
6 and previous suicide attempts. Despite knowledge of Thomas' problems and history of
7 attempting suicide by jumping off upper tiers, Naranjo approved Thomas for housing on
8 the upper tier under supervisory conditions similar to general population.

9 On October 6, 2015, Thomas' father ("Plaintiff") filed a complaint on behalf of his
10 son against the County of San Diego, Dr. Alfred Joshua—the San Diego Chief Medical
11 Officer for the Sheriff's Detention Services, and William D. Gore—the Sheriff of San
12 Diego County. The Complaint alleged claims under 42 U.S.C. § 1983 for cruel and
13 unusual punishment against all Defendants and negligence against Defendants Alfred
14 Joshua and William D. Gore. (See Compl.) Plaintiff subsequently moved for leave to file
15 an amended complaint adding Jail employed nurses Larry Deguzman, Mary Montelibano,
16 and Marylene Allen; doctors Rick Leigh Malaguti and Jorge Naranjo; Deputy David
17 Guzman; and Public Defender Connie Magana. Defendants opposed, arguing, *inter alia*,
18 that the proposed first amended complaint would be futile because the statute of
19 limitations had run as to the added defendants and the amended complaint would not
20 relate back under California's DOE pleading doctrine. The Court found that the proposed
21 first amended complaint would relate back and granted Plaintiff's motion.

22 Plaintiff has filed the First Amended Complaint. (FAC [Doc. 38].) Naranjo now
23 moves to dismiss the First Amended Complaint as to him. (MTD [Doc. 46].) Plaintiff
24 opposes. (Opp'n [Doc. 55].)

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1 **II. LEGAL STANDARD**

2 The court must dismiss a cause of action for failure to state a claim upon which
3 relief can be granted. Fed. R. Civ. P. 12(b)(6). A motion to dismiss under Rule 12(b)(6)
4 tests the complaint's sufficiency. *See N. Star Int'l v. Ariz. Corp. Comm'n.*, 720 F.2d 578,
5 581 (9th Cir. 1983). The court must assume the truth of all factual allegations and
6 "construe them in the light most favorable to [the nonmoving party]." *Gompper v. VISX,*
7 *Inc.*, 298 F.3d 893, 895 (9th Cir. 2002); *see also Walleri v. Fed. Home Loan Bank of*
8 *Seattle*, 83 F.2d 1575, 1580 (9th Cir. 1996).

9 As the Supreme Court explained, "[w]hile a complaint attacked by a Rule 12(b)(6)
10 motion to dismiss does not need detailed factual allegations, a plaintiff's obligation to
11 provide the 'grounds' of his 'entitlement to relief' requires more than labels and
12 conclusions, and a formulaic recitation of the elements of a cause of action will not do."
13 *Bell Atl. Corp. v. Twombly*, 127 S.Ct. 1955, 1964-65 (2007) (internal citations and
14 quotation marks omitted). Instead, the allegations in the complaint "must be enough to
15 raise a right to relief above the speculative level." *Id.* at 1965. A complaint may be
16 dismissed as a matter of law either for lack of a cognizable legal theory or for insufficient
17 facts under a cognizable theory. *Robertson v. Dean Witter Reynolds, Inc.*, 749 F.2d 530,
18 534 (9th Cir. 1984).

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1 **III. DISCUSSION**

2 The First Amended Complaint lists Naranjo as a Defendant on the first and fifth
3 causes of action only. The first cause of action alleges deliberate indifference to a serious
4 medical need in violation of the Fourteenth Amendment to the U.S. Constitution and 42
5 U.S.C. § 1983. The fifth cause of action alleges negligence. Naranjo seeks dismissal of
6 both claims on the grounds that they are untimely under the applicable statutes of
7 limitations. Naranjo further seeks dismissal of the first cause of action under the theory
8 that he was not deliberately indifferent and, even if he was, such deliberate indifference
9 was not a causal factor of Thomas' injury. Neither argument is persuasive.

10 As to the statute of limitations argument, Naranjo is correct that the causes of
11 action against him are untimely if the First Amended Complaint does not relate back to
12 the time Plaintiff filed the original Complaint. However, in ruling on Plaintiff's motion
13 for leave to file the First Amended Complaint, the Court already held that the First
14 Amended Complaint would relate back under Fed. R. Civ. P. 15(c)(1)(A) and the
15 California DOE pleading doctrine. (April 20, 2017 Order [Doc. 37].) Naranjo
16 nevertheless argues that this holding no longer applies to Naranjo because the Summons
17 [Doc. 39], (which was generated by the Clerk of Court and names Naranjo as a
18 Defendant) does not indicate that Naranjo was previously an unnamed DOE Defendant.

19 Naranjo fails to cite a single authority suggesting that a defendant added under the
20 DOE doctrine must specifically be labeled in the summons as a previous DOE defendant.
21 Nor is there any policy reason for such a requirement given that the summons informs
22 Naranjo that he is now a defendant and it is entirely clear on the docket that he was added
23 under the DOE doctrine. Accordingly, the Court finds that the first and fifth causes of
24 action against Naranjo are timely because they relate back to the filing of the original
25 complaint.

26 As to the deliberate indifference claim, Naranjo argues that, as a matter of law,
27 the required elements of intent and causation are lacking. To adequately plead a
28 deliberate indifference claim based on inadequate medical care, a detained person need

1 only allege that a medical provider was aware of and disregarded his serious medical
2 need. *Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir. 2006). Suicidal ideations constitute a
3 serious medical need. *Simmons v. Navajo County, Ariz.*, 609 F.3d 1011, 1017–18 (9th
4 Cir. 2009). Here, Naranjo reviewed documentation showing that Thomas had a history of
5 attempting suicide by jumping off upper tier housing units. Notwithstanding, Naranjo
6 violated Jail policy and assigned Thomas to an upper tier housing unit with general
7 population level supervision. Construing all allegations in favor of Plaintiff, the Court
8 finds that the First Amended Complaint plausibly alleges that Naranjo was deliberately
9 indifferent to Thomas’ suicidal tendencies.

10 Next, Naranjo argues that, even if Naranjo’s decision to assign Thomas to an upper
11 tier amounted to deliberate indifference, such deliberate indifference did not cause
12 Thomas’ injury. Specifically, Naranjo argues that causation is severed because other Jail
13 personnel could have changed Thomas’ housing assignment. This argument strains
14 credulity. It is akin to arguing that one who drowns a victim by pushing them into a pool
15 is not to blame because a bystander could have come to the victim’s rescue. In other
16 words, from the fact that there was more than one cause of Thomas’ injury, it does not
17 follow that Naranjo’s decision was not a necessary link in the chain of causation.

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19 **IV. CONCLUSION & ORDER**

20 For the foregoing reasons, the Court **DENIES** Naranjo’s motion to dismiss.

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22 **IT IS SO ORDERED.**

23 Dated: September 6, 2017

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25 Hon. M. James Lorenz
26 United States District Judge
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